

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

VERIZON NORTH INC., VERIZON SOUTH INC.)
EGIX NETWORK SERVICES, INC. (EGIX NETWORK SERVICES))
) 03-0405
Joint Petition of VERIZON North Inc. VERIZON South Inc., and)
EGIX NETWORK SERVICES, INC.(EGIX NETWORK SERVICES))
Regarding Adoption of an Interconnection Agreement)

VERIFIED STATEMENT OF A. OLUSANJO OMONIYI

My name is A. Olusanjo Omoniyi and I am employed by the Illinois Commerce Commission as a Policy Analyst in the Telecommunications Division. I graduated from Southern Illinois University at Carbondale with a Bachelor of Arts degree in Cinema & Photography and Bachelor of Science degree in Radio-Television in 1987. In 1990, I obtained a Master of Arts degree in Telecommunications and a Juris Doctor in 1994 also from Southern Illinois University at Carbondale. Among my duties as a Policy Analyst is to review negotiated agreements and provide a recommendation as to their approval.

SYNOPSIS OF THE AGREEMENT

The instant agreement between VERIZON NORTH INC., VERIZON SOUTH INC. (collectively "VERIZON" or "Carrier") and EGIX NETWORK SERVICES, INC. EGIX NETWORK SERVICES ("EGIX NETWORK SERVICES" or "Requesting Carrier") becomes effective on May 26, 2003, and is scheduled to remain effective for a period of three (3) years. This Agreement shall continue in effect for consecutive one (1) year terms thereafter unless either party gives the other party at least ninety (90) calendar days written notice of termination, which termination shall be effective at the end of the

initial term. In this agreement, EGIX NETWORK SERVICES adopted the terms of an interconnection agreement between AT&T and VERIZON NORTH, INC., VERIZON SOUTH, INC. ("AT&T/VERIZON AGREEMENT"), approved by the Commission in Docket No. 99-AA-001 (the AT&T Arbitration) which includes but not limited to the term of the Agreement. Also, the Agreement establishes the financial and operational terms for: the physical interconnection between VERIZON's and EGIX NETWORK SERVICES' networks on mutual and reciprocal compensation; unbundled access to VERIZON's network elements, including VERIZON's operations support systems functions; physical collocation of certain equipment; number portability; resale and a variety of other business relationships. The rates for VERIZON's services available for resale are based upon an avoided cost discount from VERIZON's retail rates.

The purpose of my verified statement is to examine the agreement based on the standards enunciated in section 252(e)(2)(A) of the 1996 Act. Specifically, this section states:

- The State commission may only reject-
- an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that-
- (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
 - (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.

Also, under authority granted the Commission by Section 252(e)(3) of the 1996 Telecom Act, this agreement has been reviewed for consistency with the requirements of the Illinois PUA and regulations, rules and orders adopted pursuant thereof.

I. APPROVAL UNDER SECTION 252(e)

A. DISCRIMINATION

The first issue that must be addressed by the Commission in approving or rejecting a negotiated agreement under Section 252(e)(2)(A) is whether it discriminates against a telecommunications carrier that is not a party to the agreement.

Discrimination is generally defined as giving preferential treatment to the requesting carrier to the detriment of a telecommunications carrier that is not a party to the agreement. In previous dockets, Staff has taken the position that in order to determine if a negotiated agreement is discriminatory, the Commission should determine if all similarly situated carriers are allowed to purchase the service under the same terms and conditions as provided in the agreement. I recommend that the Commission use the same approach when evaluating this negotiated agreement.

A carrier should be deemed to be a similarly situated carrier to EGIX NETWORK SERVICES for purposes of this agreement if telecommunications traffic is exchanged between such carrier and VERIZON for termination on each other's networks and if such carrier imposes costs on VERIZON that are no higher than the costs imposed by EGIX NETWORK SERVICES. If a similarly situated carrier is allowed to purchase the service(s) under the same terms and conditions as provided in this contract, then this contract should not be considered discriminatory. Evaluating the term discrimination in this manner is consistent with the economic theory of discrimination. Economic theory defines discrimination as the practice of charging different prices (or the same prices) for various units of a single product when the price differences (or same prices) are not justified by cost. See, Dolan, Edwin G. and David E. Lindsey, *Microeconomics*, 6th

Edition, The Dryden Press, Orlando, FL (1991) at pg. 586. Since Section 252(i) of the 1996 Act allows similarly situated carriers to enter into essentially the same contract, this agreement should not be deemed discriminatory.

B. PUBLIC INTEREST

The second issue that needs to be addressed by the Commission in approving or rejecting a negotiated agreement under Section 252(e)(2)(A) is whether it is contrary to the public interest, convenience, and necessity. I recommend that the Commission examine the agreement on the basis of economic efficiency, equity, past Commission orders, and state and federal law to determine if the agreement is consistent with the public interest.

In previous dockets, Staff took the position that negotiated agreements should be considered economically efficient if the services are priced at or above their Long Run Service Incremental Costs ("LRSICs"). Requiring that a service be priced at or above its LRSIC ensures that the service is not being subsidized and complies with the Commission's pricing policy. All of the services in this agreement are priced at or above their respective LRSICs. Therefore, this agreement should not be considered economically inefficient.

Also, upon Staff's review, it was noted that VERIZON wrote a letter to EGIX NETWORK SERVICES on May 12, 2003, upon the latter's request to adopt the terms of the interconnection agreement between AT&T and VERIZON pursuant to §252(i) of the Federal Telecommunications Act of 1996 (FTA '96), detailing what EGIX NETWORK SERVICES needs to do to adopt the Agreement. This letter is identified on the

Commission's e-docket as the "Adoption Letter." EGIX NETWORK SERVICES agreed to be bound by and adopts in the service territory of VERIZON the Agreement in question and its terms and conditions, as they are in effect on the date hereof, after giving effect to applicable changes in law that may or may not have been reflected in the adopted Agreement. This letter shows that the parties know the implications of adopting this Agreement. However, in previous cases wherein this or a similar letter was filed as an attachment to the Joint Petition, Verizon agreed that the letter is not part of the Negotiated Agreement between these parties.

Finally, I recommend that the Commission approve this agreement subject to the above recommendations.

II IMPLEMENTATION

In order to implement the VERIZON-EGIX NETWORK SERVICES agreement, the Commission should require VERIZON to, within five days from the date the agreement is approved, modify its tariffs to reference the negotiated agreement for each service. Such a requirement is consistent with the Commission's Orders in previous negotiated agreement dockets and allows interested parties access to the agreement. The following sections of VERIZON's tariffs should reference the VERIZON-EGIX NETWORK SERVICES Agreement: Agreements with Telecommunications Carriers (ICC No. 10 Section 18).

Furthermore, in order to assure that the implementation of the Agreement is in the public interest, VERIZON should implement the agreement by filing a verified statement with the Chief Clerk of the Commission, within five (5) days of approval by the


Commission, that the approved Agreement is the same as the Agreement filed in this docket with the verified petition without VERIZON's Adoption Letter. The Chief Clerk should place the separately filed Agreement without the letter on the Commission's web site under Interconnection Agreements. Such a requirement is also consistent with the Commission's Orders in previous negotiated agreement dockets.

For the reasons enumerated above, I recommend that the Commission approve this agreement pursuant to Section 252(e) of the Telecommunications Act of 1996.

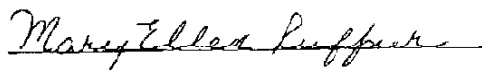
VERIFICATION

STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)

I, A. Olusanjo Omoniyi, do on oath depose and state that if called as a witness herein, I would testify to the facts contained in the foregoing document based upon personal knowledge.



SIGNED AND SWORN TO BEFORE ME THIS 2nd DAY OF
July, 2003.


NOTARY PUBLIC

